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Attorney Dkt. No. 64688/155

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: application of:

Steven J. Soldin

Serial No. 10/073,334

Filed: 02/13/2002

A divisional application derived from

Serial No. 09/643,723

Filed: 08/23/2000

For: A Novel 8.4 kDa Immunophilin

Group Art Unit: 1654

Examiner: Anish Gupta

BY FACSIMILE TO 703-872-9306

RE-SUBMISSION OF AMENDMENT

Commissioner for Patents

Box 1450

Arlington, VA 22313-1450

Mail Stop: Non-Fee Amendment

Sir:

On 09/09/2004 the undersigned attorney received a telephone call from Examiner Gupta informing me that the captioned application had gone abandoned for an alleged failure to timely respond to an Office Action mailed 2/24/2004.

In point of fact, applicant had submitted the required Amendment under 37 CFR 1.111 on 03/16/2004 by facsimile to the TC 1600 auto-facsimile telephone number, and received by Auto-Reply Facsimile Transmission an immediate acknowledgement of the receipt by the Office on that date of the Amendment. We attach the necessary proofs plus a copy of the Amendment originally filed on 03/16/2004. Therefore, if the examiner has not received applicant's Amendment it is due to Office error.

It is requested that any Notice of Abandment be voided, and the Amendment be entered.

Respectfully submitted,

Date of signature: 09/20/2004



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TO: Auto-reply fax to 2023628404 3/16/2004 5:01 PM PAGE 1/001 Fax Server
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Auto-Reply Facsimile Transmission



TO: Fax Sender at 2023628404
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03/16/2004 17:54 2023628404 MBIPLAW PAGE 01

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TO: Anish Gupta, GAC 1634, TC1500 OF: United States Patent & Trademark Office
 FAX NUMBER: 703-472-9306
 FROM: Dr. Melvin Blecher
 DATE/TIME: 03/16/2004
 OUR REF. NO.: 64688/155 NO. OF PAGES (INCLUDING COVER): 7
 Attorney Dkt. No. 64688/155
 In re: application of:
 Steven A. Boldin
 Serial No. 10/078,334
 Filed: 02/19/2002
 A divisional application derived from
 Serial No. 09/643,723 Filed: 08/23/2000
 For: A Novel 8.4 kDa Immunophilin

MESSAGE

Enclosed is a non-fee, before-final Amendment under 37 CFR 1.111, consisting of:

- (1) An Amendment- 3pp
- (2) Clean copy of all claims- 2pp

Authorization to file by facsimile: 37 CFR 1.8 and
www.uspto.gov/september11/faxnotice.htm.

PAGE 10 * RCVD AT 2/16/2004 4:58:48 PM [Eastern Standard Time] * SVR:USPTO-EFAX * DNIS:8729306 * CSID:2023628404 * DURATION (mm:ss):01:40

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FAX NUMBER: 703-872-9306
FROM: Dr. Melvin Blecher
DATE/TIME: 03/16/2004
OUR REF. NO.: 64688/155 **NO. OF PAGES (INCLUDING COVER):** ~~10~~ 7
Attorney Dkt. No. 64688/155
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AMENDMENT UNDER 37 CFR 1.111

Commissioner for Patents

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Sir:

This is a response to an Office Action mailed 2/24/2004.

In the claims:

Amend claim 1, subparagraph (iv) as follows:

(iv) capable of specifically binding FK-506, rapamycin, [or] pharmacologically active metabolites [or derivatives] thereof, or pharmacologically active derivatives of rapamycin, but not cyclosporin.

Cancel claim 8 and replace with new claim 9:

9. A mercantile kit for the determination of immunosuppressant drugs FK-506, rapamycin and pharmacologically active metabolites thereof and pharmacologically-active derivatives of rapamycin, in a fluid sample, comprising, in separate compartments: a recombinant 8.4 kDa immunophilin according to claim 7; optionally, one or more of unlabeled said immunosuppressant drugs or pharmacologically-active metabolites thereof and pharmacologically-active derivatives of rapamycin; and, optionally, one or more labeled said immunosuppressant drugs or pharmacologically-active metabolites or derivatives thereof.